

**THE UNITED STATE DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA**

NOAH BANK, and)	
EDWARD SHIN)	
a/k/a EUNG SOO SHIN)	Civil Action No. 18-01413-WB
)	
Plaintiffs)	
vs.)	
)	
SUNDAY JOURNAL USA CORPORATION, and)	
Y & L MEDIA, INC.)	
)	
Defendants)	

**DEFENDANT'S MOTION TO DISMISS
PLAINTIFFS' SECOND AMENDED COMPLAINT**

Now come Y & L MEDIA, INC., d/b/a SUNDAY JOURNAL USA and SUNDAY JOURNAL USA CORPORATION (hereafter Y&L and SUNDAY JOURNAL, respectively), appearing specially to contest jurisdiction in this matter, and move this Honorable Court to dismiss the Second Amended Complaint (SAM) filed on behalf of the Plaintiffs', NOAH BANK and EDWARD SHIN a/k/a EUNGSOO SHIN (hereafter, BANK and SHIN, respectively).

In support of the motion to dismiss, Defendants' incorporate by reference their Memorandum, filed in support of the instant motion, filed separately herewith.

Plaintiffs' SECOND Amended Complaint, a third attempt, still does not allege facts or sufficient contacts by which proper jurisdiction might be established over the Defendants in Pennsylvania.

Instead, Plaintiffs' now allege upon information and belief, that an individual identified as Dong Lee, may have provided information to the author of the allegedly offending articles (SAM p. 6, ¶ 32; p. 10, ¶ 42; p. 11, ¶ 48; p. 12, ¶ 56) . Assuming, *solely arguendo*, the allegation

regarding Mr. Dong Lee is true ¹, it does not establish proper jurisdiction over the Defendants in Pennsylvania. There is no claim that the alleged communication took place in Pennsylvania. Even if any such communication as is alleged took place in Pennsylvania, that would not establish proper jurisdiction.

Plaintiffs' allegations are disingenuous, especially where they claim BANK was at all times a Pennsylvania bank with headquarters in the Commonwealth of Pennsylvania. While that fact may be true, it disregards the extent and geography of the BANK and its business. A review of the BANK website (www.noahbank.com) shows the BANK offers e-banking, and has branches at the following locations:

- [a] 7301 Old York Road, Elkins Park, PA 19027
- [b] 154-04 Northern Blvd., Flushing, NY 11354
- [c] 38 West 32nd Street, Suite 1100, New York, NY 10001
- [d] 449 Broad Avenue, Palisades Park, NJ 07650
- [e] 2337 Lemoine Avenue, Fort Lee, NJ 07024

BANK has two locations in New Jersey, two locations in New York, and only one location in Pennsylvania.

The altercation discussed in the allegedly offending articles discuss events which took place in New York and SHIN has filed suit in the courts of the State of New York in connection with that altercation.

Plaintiffs' unsupported allegations, based solely upon information and belief, (p. 6, ¶ 34; p. 10, ¶ 44; p. 11, ¶ 50; p. 12, ¶ 58) claims SUNDAY JOURNAL directed its statements to

¹ Defendants expressly do not admit the allegation regarding Mr. Dong Lee.

Korean speaking persons residing in Pennsylvania.

Despite Plaintiffs' unsupported allegation, there is nothing to indicate that the allegedly offending articles were directed to Pennsylvania rather than New Jersey, New York, or elsewhere.

Defendants' have asserted they have no subscribers in Pennsylvania, do not target businesses or individuals in Pennsylvania, and does not actively sell any products in Pennsylvania. Defendants have not engaged in systematic or continuous activities, or other minimum contacts, in the forum state which might otherwise support jurisdiction. Plaintiffs' made no allegations which contradict these facts. The mere existence of a website, without more, does not subject SUNDAY JOURNAL to the jurisdiction of this court in Pennsylvania.

Plaintiffs' SECOND Amended Complaint fails to allege sufficient facts to establish jurisdiction over the Defendants' by and within the Commonwealth of Pennsylvania and the SECOND Amended Complaint should be dismissed with prejudice.

Based on the forgoing, the Defendants' Memorandum (filed separately herewith), the facts, law and arguments contained therein, the Plaintiffs' SECOND Amended Complaint should be dismissed with prejudice.

WHEREFORE: The Defendants, Y & L Media, Inc., and Sunday Journal USA Corporation, pray this Honorable Court to dismiss the Plaintiffs' Complaint in its entirety, with prejudice, together with such other relief as the court deems just and proper.

DATE: October 17, 2018

Respectfully submitted by,



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